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DEPARTMENT OF HOMELAND SECURITY

U.S Customs and Border Protection

Extension of National Customs Automation Program

eBond Test

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces the extension of U.S. Customs and Border Protection's (CBP's) National Customs Automation Program (NCAP) test concerning the automation of CBP's bond program (eBond test). CBP announced the eBond test in a *Federal Register* notice published on November 28, 2014. The test program has run continuously and without interruption since it commenced on January 3, 2015, and continues to run currently. This notice informs interested members of the public that CBP is extending the test until further notice.

DATES: The eBond test program is extended until further notice. CBP will publish notice of the conclusion of the eBond test in the *Federal Register*.

ADDRESSES: Written comments and/or questions regarding this notice or any aspect of this test may be submitted to CBP via email to eBondTest@cbp.dhs.gov with the subject line identifier reading "Comments/Question on eBond Test." Requests for a

surety filer code, and surety requests to participate in the eBond test should be sent to CONRAD.L.HENRY@cbp.dhs.gov, with a subject line identifier specifying either “Surety filer code request” or “Surety request to participate in eBond test.”

FOR FURTHER INFORMATION CONTACT: For operational questions, please contact Kara Welty, Chief, Debt Management Branch, Revenue Division, Office of Finance at KARA.N.WELTY@CBP.DHS.GOV. For technical questions, please contact John Everett, Chief, Post Release Branch, Trade Transformation Office at JOHN.R.EVERETT@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

I. National Customs Automation Program

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Customs Modernization Act) (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (19 U.S.C. 1411). Through NCAP, the thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring

compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions and add new functionality.

Section 631 of the Customs Modernization Act added section 411 to the Tariff Act of 1930 (19 U.S.C. 1411). This section defines the NCAP, provides for the establishment of and participation in the NCAP, and includes a list of existing and planned components. Section 411(a)(2)(D) identifies the electronic filing of bonds as a planned NCAP component.

Pursuant to 19 U.S.C. 1623(b), bonds may be submitted electronically to CBP pursuant to an authorized electronic data interchange (EDI) system. Furthermore, as stated in 19 U.S.C. 1623(d), a bond transmitted electronically to a CBP-authorized EDI system will have the same force and effect and be binding upon the parties as if the bond were manually executed, signed, and filed. The CBP regulations governing bonds are found in part 113 of Chapter 1 of title 19 of the Code of Federal Regulations (19 CFR part 113).

II. Authorization for the eBond Test

The Customs Modernization Act authorizes the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The test concerning the automation of CBP's bond program (eBond Test) is authorized pursuant to 19 CFR 101.9(b), which provides for the testing of NCAP components. *See* T.D. 95-21, 60 FR 14211 (March 16, 1995).

III. Description and Extension of the Test Program

A notice describing the eBond test program and setting forth the program's terms and conditions was published in the *Federal Register* (79 FR 70881) on November 28, 2014. That notice provided for the transmission of electronic bond contracts (eBonds) between principals and sureties, with CBP as the third-party beneficiary, in the Automated Commercial Environment (ACE) for the purpose of linking those eBonds to the transactions they are intended to secure. The notice described the test program in detail, setting forth the method and content for the transmission of electronic bonds, either through an electronic data interchange (EDI), or by email, for manual input into ACE. Furthermore, the test notice identified the regulatory provisions suspended for the test, announced the eligibility criteria for participation in the test program, and stated that the test would commence on January 3, 2015 and continue for approximately two years.

A subsequent notice was published in the *Federal Register* (80 FR 899) on January 7, 2015, announcing three clarifications of the eBond test: the method by which

continuous bonds executed prior to or outside of the eBond test could be converted to eBonds by the surety and principal; that the surety or principal has the ability to terminate an eBond; and that the principal on an eBond is identified by its filing identification number. In addition, the notice corrected the email address to which the public could address technical questions. These changes became effective January 7, 2015.

On November 13, 2015, after the publication of the eBond test notices described above, CBP published a final rule in the *Federal Register* (80 FR 70154) amending the CBP regulations to allow, among other things, the submission of a bond application by email. As a result of that rule, bond contracts can be transmitted via email pursuant to the regulations, and email transmission is no longer part of the eBond test.

In this document, CBP announces that it is extending the test indefinitely. CBP will publish notice of the conclusion of the test in the *Federal Register*. The extension of the test program is intended to encourage greater participation in the test by the trade and thereby provide CBP data needed to assess the feasibility of implementing the test program on a permanent basis. Comments concerning this notice and any aspect of the prototype may be submitted at any time during the test period. Except with respect to transmission of bond contracts via email pursuant to the regulations, rather than pursuant to the eBond test, all aspects, rules, terms and conditions announced in previous notices regarding the eBond test remain in effect. CBP will inform interested members of the

public of its decision to implement and/or conclude the test program by way of announcement in the *Federal Register*.

Dated: March 15, 2018.

Brenda B. Smith,
Executive Assistant Commissioner,
Office of Trade.

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